



BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2011-0132]

RIN 0579-AD62

Importation of Fresh Apricots from Continental Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation into the United States of fresh apricots from continental Spain. As a condition of entry, fresh apricots from continental Spain would have to be produced in accordance with a systems approach that would include registration of production locations and packinghouses, pest monitoring, sanitary practices, chemical and biological controls, and phytosanitary treatment. The fruit would also have to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to port of entry in the United States. Consignments would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Spain certifying that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. This proposed rule would allow for the importation of fresh apricots from continental Spain into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0132-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2011-0132, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0132> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith C. Jones, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737-1231; (301) 851-2018.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-57, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Currently, the regulations prohibit imports of fresh apricot fruit (Prunus armeniaca Marshall) from continental Spain (excluding the Balearic Islands and Canary Islands) due to the fruit serving as a likely pathway for four quarantine pests. The Animal and Plant Health Inspection Service (APHIS) received a request from the national plant protection organization (NPPO) of Spain to allow fresh apricots from continental Spain to be imported into the United States subject to a systems approach. As part of our evaluation of Spain's request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and the RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

The PRA, titled “Importation of Fresh Apricot, Prunus armeniaca (L.) fruit, from Continental Spain into the United States, including Hawaii and U.S. Territories” (March 2010), evaluates the risks associated with the importation of fresh apricot fruit into the United States from continental Spain. The RMD draws upon the findings of the PRA to determine the phytosanitary measures necessary to ensure the safe importation into the United States of apricots from continental Spain.

The PRA identifies four quarantine pests that could follow the pathway of consignments of fresh apricots imported from continental Spain into the United States:

- The Mediterranean fruit fly (Medfly), Ceratitis capitata Wiedemann,
- The plum fruit moth, Cydia funebrana (Treitschke),
- Leaf scorch, Apiognomonia erythrostoma (Pers.), a fungus, and
- Brown rot, Monilinia fructigena Honey, a fungus.

A quarantine pest is defined in § 319.56-2 as a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled. Plant pest risk potentials associated with the importation of fresh apricots from continental Spain into the United States were derived by estimating the consequences and likelihood of introduction of each quarantine pest into the United States and ranking the risk potential as High, Medium, or Low. The PRA determined that three of these four quarantine pests—brown rot, Medfly, and plum fruit moth—pose a high risk of following the pathway of fresh apricots from continental Spain into the United States and having negative effects on U.S. agriculture. Leaf scorch was rated as having a medium risk potential.

Based on the conclusions of the PRA and RMD, we are proposing to allow the importation of fresh apricots from continental Spain¹ into the United States subject to a systems approach. Under a systems approach, a set of phytosanitary conditions, at least two of which have an independent effect in mitigating the pest risk associated with the movement of commodities, is specified, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests.

We are proposing to add the systems approach for apricots from continental Spain to the regulations in a new § 319.56-58. The specific mitigation measures required in the systems approach for each quarantine pest are discussed below, as well as in the risk management document.

General Requirements

General requirements for importing apricots from continental Spain into the United States would be listed in proposed § 319.56-58(a). The NPPO of Spain would be required to provide a bilateral workplan to APHIS that details the activities of the systems approach, including

¹Imports of fresh apricots from the Balearic Islands and Canary Islands would continue to be prohibited.

inspections, monitoring, trapping, and surveying, that the NPPO of Spain will carry out to meet the proposed requirements. APHIS would have to approve the workplan and would be directly involved with the NPPO of Spain in monitoring and auditing the systems approach implementation. A bilateral workplan is an agreement between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities, that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Bilateral workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Bilateral workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires a bilateral workplan to be developed. The NPPO of Spain would also be required to enter into a trust fund agreement with APHIS in accordance with § 319.56-6 to cover our monitoring and auditing costs.

All places of production and packinghouses in continental Spain that participate in the program to export apricots to the United States must be registered with and approved by the NPPO of Spain and meet the requirements of proposed § 319.56-58. The place of production where the apricots were grown would have to be identifiable when the fruit leaves the grove, at the packinghouse where the fruit is packed, and throughout the export process. Boxes containing apricot fruit would have to be marked with the identity and origin of the fruit. Safeguarding in accordance with the regulations in proposed § 319.56-58(h) would have to be maintained at all times during the movement of the apricot fruit to the United States and remain intact upon arrival in the United States.

Commercial Consignments

The regulations in proposed § 319.56-58(b) would require that fresh apricots from continental Spain would be allowed to be imported into the United States in commercial consignments only. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Monitoring and Oversight

Under proposed § 319.56-58(c), if APHIS approved the workplan, the NPPO of Spain would have to begin conducting inspections and monitoring places of production and packinghouse operations to verify that they comply with the requirements of proposed § 319.56-58. The NPPO of Spain would be required to visit and inspect the places of production monthly, starting 2 months (60 days) before harvest and continuing until the end of the shipping season, to verify that growers are complying with the requirements of proposed § 319.56-58 and following pest control guidelines, when necessary, to reduce quarantine pest populations. The NPPO would also have to monitor packinghouses to verify that the packinghouses are complying with proposed § 319.56-58. Under paragraph (c)(3) of proposed § 319.56-58, if the NPPO of Spain were to find that a place of production or a packinghouse did not comply with the regulations in proposed § 319.56-58, fruit from that place of production or packinghouse would not be eligible for export to the United States until APHIS and the NPPO of Spain conducted an investigation and implemented appropriate remedial actions.

Any personnel conducting trapping and pest surveys required by the systems approach would have to be hired, trained, and supervised by the NPPO of Spain. The NPPO would have to certify that exporting places of production have fruit fly and moth trapping programs and follow control guidelines, when necessary, to reduce regulated pest populations. APHIS would monitor and inspect the places of production as necessary.

Proposed § 319.56-58(c)(4) would also require that the NPPO of Spain retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, upon request, provide them to APHIS for review.

Grove Sanitation

Proposed § 319.56-58(d) would require all fruit that has fallen from the trees of each place of production to be removed from the grove and destroyed weekly. This procedure would reduce the amount of material in the groves that could serve as potential host material for insect pests.

Mitigations for Specific Quarantine Pests

Fungi

During the growing season, the NPPO of Spain would be required in accordance with proposed § 319.56-58(e) to conduct inspections at intervals specified in the workplan in places of production for signs of the fungi A. erythrostoma and M. fructigena until harvest is completed. Infected leaves would have to be removed from places of production to reduce the inoculum potential. Upon detection of either A. erythrostoma or M. fructigena, the NPPO of Spain would be required to notify APHIS, which may prohibit the importation into the United States of apricots from the production site for the season.

Mitigations for *C. funebrana*

Under proposed § 319.56-58(f), APHIS would require the NPPO of Spain to use one of the following two mitigation measures to address the risk potential posed by *C. funebrana*:

Pest-Free Area: Under this mitigation measure, apricots would have to originate from an area designated as free of *C. funebrana* in accordance with § 319.56-5 for the establishment of pest-free areas. Paragraph (a) of § 319.56-5 states that determinations of pest-free areas be made in accordance with International Standards for Phytosanitary Measures (ISPM) No. 4, which is incorporated by reference in § 300.5. ISPM No. 4 sets out three main criteria for recognition of a pest-free area:

- Systems to establish freedom;
- Phytosanitary measures to maintain freedom; and
- Checks to verify freedom has been maintained.

Paragraph (b) of § 319.56-5 requires that APHIS approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be taken upon detection of a pest. It also indicates that pest-free areas are subject to audit by APHIS to verify their status.

Area of Low Pest Prevalence and Pest Management: Under this mitigation measure, each registered place of production would have to be visited and inspected by the NPPO of Spain for signs of *C. funebrana* and pheromone trapping for *C. funebrana* would have to be conducted. The purpose of the inspection and trapping is to demonstrate that the places of production have a low prevalence of *C. funebrana*.

Specific inspection and trapping requirements would be included in the bilateral workplan and would be adjusted as necessary to ensure that inspection and trapping are effective.

Consistent with the recommendations of the RMD, the bilateral workplan would initially require samples of 20 fruits per tree from 50 trees within every 4 hectares to be visually inspected by the NPPO of Spain every 7 days during the growing season. During the harvest period, samples of 40 fruits per tree from 50 trees within every 4 hectares would have to be visually inspected by the NPPO of Spain every 7 days until harvest is completed. The NPPO of Spain would also have to sample and inspect a quantity of fruit specified in the workplan. In addition, the bilateral workplan would initially require places of production to be trapped for C. funebrana with APHIS-approved pheromone traps at a density of 2 traps per 4 hectares, with a minimum of 2 traps per place of production. Traps would have to be checked every 7 days from fruit formation until completion of harvest. If the trap counts are greater than 10 moths per trap per week, or more than 1 percent of the fruits sampled in a week are damaged or found to have any life stage of C. funebrana, remedial measures would have to be implemented. The NPPO of Spain would have to keep records of the placement of traps, trap visits, trap counts, and treatments for each registered place of production.

Mitigations for Medfly

Under proposed § 319.56-58(g), the places of production would be required to be trapped for Medfly to demonstrate that there is a low prevalence of Medfly in those places of production. Similar to C. funebrana, specific trapping requirements for Medfly would be included in the bilateral workplan and would be adjusted as necessary to ensure that trapping is effective. Consistent with the recommendations of the RMD, the bilateral workplan would initially require trapping with 1 APHIS-approved trap per 12 hectares, with a minimum of 1 trap per place of production, beginning May 1 of each year and remaining in place and in service until harvesting is completed. Any time that trap counts are greater than 0.5 flies per trap per day, remedial

measures would need to be implemented and approved by APHIS and the NPPO of Spain. The NPPO of Spain would have to keep records of the placement of traps, trap visits, trap counts, and treatments for each registered place of production.

All fresh apricots for export from continental Spain to the United States would have to undergo a cold treatment for Medfly in accordance with the requirements for conducting phytosanitary treatment in 7 CFR part 305.

We are proposing to require two phytosanitary mitigation measures for Medfly because high larval populations of Medfly in fruit can overwhelm the effectiveness of cold treatment. The trapping and field mitigation measures for Medfly would maintain populations at acceptably low prevalence levels and ensure that cold treatment is effective.

Post-Harvest Procedures and Packinghouse Requirements

Specific post-harvest and packinghouse requirements, listed in paragraphs (h) and (i) of proposed § 319.56-58, are intended to prevent insect infestation of harvested fruit during processing, packing, and shipment. Apricots would have to be safeguarded by a pest-proof screen, plastic tarpaulin, or some other pest-proof barrier while in transit to the packinghouse and while awaiting packing. They would have to be packed and sealed within 24 hours of harvest into pest-proof cartons or containers or covered with pest-proof mesh or a plastic tarpaulin for transport to the United States. These safeguards would be required to remain intact until arrival of the consignment in the United States.

Packing of apricots for export to the United States would have to be conducted within a packinghouse registered and approved by the NPPO of Spain. Packinghouses in which apricots are packed for export to the United States would have to be able to exclude quarantine pests. All openings to the outside of the packinghouse would have to be covered by screening with

openings of not more than 1.6 mm or by some other barrier that prevents pests from entering. The 1.6 mm maximum screening size is adequate to exclude the insect pests of quarantine significance named earlier in this document. The packinghouse would have to be equipped with double self-closing doors at the entrance to the packinghouse and at the interior entrance to the area where fruit is packed to prevent inadvertent introduction of pests into the packinghouse. During the time the packinghouse is used to pack and export apricot fruit to the United States, the packinghouse may only accept fruit from places of production registered and approved by the NPPO of Spain.

Phytosanitary Inspection

Under proposed § 319.56-58(j), a biometric sample of apricots, jointly agreed upon by APHIS and the NPPO of Spain, would be required to be inspected in Spain by the NPPO following post-harvest processing. The sample would have to be visually inspected for the quarantine pests A. erythrostoma, C. funebrana, and M. fructigena, and a portion of the fruit would be cut open to inspect for the internal pest C. capitata. If any of these quarantine pests are found, the entire consignment of apricots would be prohibited from import into the United States.

Fruit presented for inspection at a U.S. port of entry would have to be identified in the shipping documents accompanying each consignment of fruit that specify the place of production in which the fruit was produced and the packinghouse in which the fruit was processed. This identification would have to be maintained with the consignment until the fruit is released for entry into the United States.

Phytosanitary Certificate

Under proposed § 319.56-58(k), each consignment of apricot fruit would have to be accompanied by a phytosanitary certificate issued by the NPPO of Spain that states that the fruit

has been treated for C. capitata in accordance with 7 CFR part 305 and includes an additional declaration stating that the fruit in the consignment was inspected and found free from A. erythrostoma, C. capitata, C. funebrana, and M. fructigena.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

This proposed rule would allow the importation into the United States of fresh apricots from continental Spain, subject to a systems approach.

The economic analysis examines impacts for U.S. small entities of a rule that would allow fresh apricot imports from continental Spain. Spain is expected to export at most 10 standard shipping containers of fresh apricot per year to the United States. Each container can hold approximately 18 metric tons (MT), thus fresh apricot imports from Spain may total as much as 180 MT annually. This amount is equivalent to about 1 percent of current U.S. consumption. With U.S. fresh apricot exports four times the quantity imported, and the amount expected to be imported from Spain very small in comparison to current U.S. consumption, any market effects of such a relatively small change in supply would be minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow fresh apricots to be imported into the United States from continental Spain, subject to a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh apricots imported under this rule would be preempted while the fruit is in foreign commerce. Fresh apricots are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2011-0132. Please send a copy of your comments to: (1) Docket No. APHIS-2011-0132, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A

comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of fresh apricots from continental Spain into the United States subject to a systems approach. As a condition of entry, apricots from Spain would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments; a limited harvest period; registration of production and packinghouses; grove sanitation, and pest control practices; treatment with surface disinfectant; and inspection for quarantine pests by the NPPO of Spain.

Apricots from continental Spain would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the apricots have been inspected and found to be free of quarantine pests and were grown and packed in accordance with the proposed requirements. This action would allow for the importation of apricots from continental Spain into the United States while continuing to provide protection against the introduction of quarantine pests.

Allowing the importation of apricots to be imported into the United States from Spain will require information collection activities, including phytosanitary certificates, production site and packinghouse registration, recordkeeping, a workplan, and a trust fund agreement.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 6.4827 hours per response.

Respondents: The NPPO of Spain and producers and importers of apricots.

Estimated number of respondents: 23.

Estimated number of responses per respondent: 1.2608.

Estimated annual number of responses: 29.

Estimated total annual burden on respondents: 188 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this

proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Add § 319.56-58 to read as follows:

§ 319.56-58 Fresh apricots from continental Spain.

Fresh apricots (Prunus armeniaca Marshall) may be imported into the United States from continental Spain (excluding the Balearic Islands and Canary Islands) only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: Apiognomonina erythrostoma (Pers.), a brown rot fungus; Ceratitis capitata Wiedemann, the Mediterranean fruit fly; Cydia funebrana (Treitschke), the plum fruit moth; and Monilinia fructigena Honey, the leaf scorch fungus.

(a) General requirements. (1) The national plant protection organization (NPPO) of Spain must provide a bilateral workplan to APHIS that details the activities that the NPPO of Spain will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. APHIS will be directly involved with the NPPO of Spain in monitoring and auditing

implementation of the systems approach. The NPPO of Spain must also enter into a trust fund agreement with APHIS in accordance with § 319.56-6.

(2) All places of production and packinghouses that participate in the export program must be registered with the NPPO of Spain.

(3) The fruit must be grown at places of production that meet the requirements of paragraph (d) of this section.

(4) The fruit must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (i) of this section. The place of production where the apricots were grown must remain identifiable when the fruit leaves the grove, at the packinghouse, and throughout the export process. Safeguarding in accordance with paragraph (h) of this section must be maintained at all times during the movement of the apricot fruit to the United States and must be intact upon arrival of the apricot fruit in the United States.

(b) Commercial consignments. Apricots from continental Spain may be imported to the United States in commercial consignments only.

(c) Monitoring and oversight. (1) The NPPO of Spain must visit and inspect places of production starting 2 months (60 days) before harvest and continuing until the end of the shipping season to verify that growers are complying with the requirements of this section and to follow pest control guidelines, when necessary, to reduce quarantine pest populations. The NPPO of Spain must certify that exporting places of production have fruit fly and moth trapping programs and follow control guidelines, when necessary, to reduce regulated pest populations. Any personnel conducting trapping and pest surveys must be hired, trained, and supervised by the NPPO of Spain. APHIS may monitor the places of production if necessary.

(2) In addition to conducting fruit inspections at the packinghouses, the NPPO of Spain must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of this section.

(3) If the NPPO of Spain finds that a place of production or packinghouse is not complying with the requirements of this section, no fruit from the place of production or packinghouse will be eligible for export to the United States until APHIS and the NPPO of Spain conduct an investigation and implement appropriate remedial actions.

(4) The NPPO of Spain must retain all forms and documents related to export program activities in places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS for review.

(d) Grove sanitation. Fruit that has fallen from the trees at each place of production must be removed and destroyed weekly.

(e) Fungi. During the growing season, the NPPO of Spain must conduct inspections at intervals specified in the workplan in the place of production for signs of A. erythrostoma and M. fructigena until harvest is completed. Infected leaves must be removed from places of production to reduce the inoculum potential. Upon detection of these fungal diseases, the NPPO of Spain must notify APHIS, which may prohibit the importation into the United States of apricots from the production site for the season.

(f) C. funebrana. The NPPO of Spain must use one of the following two mitigation measures to address the risk potential posed by C. funebrana.

(1) Pest-free area: Under this mitigation measure, apricots must originate from an area designated as free of C. funebrana in accordance with § 319.56-5.

(2) Area of low pest prevalence and pest management: Under this mitigation measure, the NPPO of Spain must visit and visually inspect registered places of production during the growing season and harvest period for signs of C. funebrana to demonstrate that the places of production have a low prevalence of C. funebrana and to verify that the growers are complying with the requirements of this paragraph. The NPPO of Spain must also sample and visually inspect a quantity of fruit specified in the workplan. Trapping must also be conducted in the places of production to demonstrate that the places of production have a low prevalence of C. funebrana. If the prevalence of any life stage of C. funebrana rises above levels specified in the bilateral workplan, remedial measures approved jointly by APHIS and the NPPO of Spain must be implemented. The NPPO of Spain must keep records of the placement of traps, trap visits, trap counts, and treatments for each registered place of production and make the records available to APHIS upon request.

(g) C. capitata. (1) Trapping must be conducted in the places of production to demonstrate that those places of production have a low prevalence of C. capitata. Specific trapping requirements are included in the bilateral workplan. If the prevalence rises above levels specified in the bilateral workplan, remedial measures approved jointly by APHIS and the NPPO of Spain must be implemented. The NPPO of Spain must keep records of the placement of traps, trap visits, trap counts, and treatments for each registered place of production and make the records available to APHIS upon request.

(2) All apricots for export from continental Spain to the United States must be treated for C. capitata in accordance with part 305 of this chapter.

(h) Post-harvest procedures. The apricots must be safeguarded by a pest-proof screen, plastic tarpaulin, or by some other pest-proof barrier while in transit to the packinghouse and

while awaiting packing. They must be packed within 24 hours of harvest into pest-proof cartons or containers or covered with pest-proof mesh or a plastic tarpaulin for transport to the United States. These safeguards must remain intact until arrival of the consignment in the United States.

(i) Packinghouse requirements. Packing of apricots for export to the United States must be conducted within a packinghouse registered and approved by the NPPO of Spain.

Packinghouses in which apricots are packed for export to the United States must be able to exclude quarantine pests. All openings to the outside of the packinghouse must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents pests from entering. The packinghouse must have double self-closing doors at the entrance to the facility and at the interior entrance to the area where the apricots are to be packed. During the time the packinghouse is used to pack and export apricot fruit to the United States, the packinghouse must only accept fruit from places of production registered and approved by the NPPO of Spain.

(j) Phytosanitary inspection. (1) A biometric sample of apricot fruit jointly agreed upon by APHIS and the NPPO of Spain must be inspected in Spain by the NPPO of Spain following post-harvest processing. The sample must be visually inspected for the quarantine pests A. erythrostoma, C. funebrana, and M. fructigena. A portion of the fruit must be cut open and inspected for C. capitata. If any of these quarantine pests are found, the entire consignment of apricot fruit will be prohibited from importation into the United States.

(2) Fruit presented for inspection at a U.S. port of entry must be identified in the shipping documents accompanying each lot of fruit that specify the place of production in which the fruit was produced and the packinghouse in which the fruit was processed. This identification must be maintained until the fruit is released for entry into the United States.

(k) Phytosanitary certificate. Each consignment of apricot fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Spain that states that the fruit has been treated for C. capitata in accordance with 7 CFR part 305 and includes an additional declaration that the fruit in the consignment was inspected and found free from A. erythrostoma, C. capitata, C. funebrana, and M. fructigena.

Done in Washington, DC, this 25th day of January 2013 .

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013-02021 Filed 01/29/2013 at 8:45 am; Publication Date: 01/30/2013]